

SOUTHERN ENVIRONMENTAL LAW CENTER

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April 3, 2020

Via U.S. Mail and FOIAonline.gov

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2310A)
Washington, DC 20460

Re: FOIA Request – NC 24/27 Road Widening, STIP Nos. R-2530B, B-4974, R-2527

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and 7 C.F.R. §§ 1.1-1.25, the Southern Environmental Law Center (“SELC”) respectfully requests copies of the following records in the possession or control of the Environmental Protection Agency (“EPA”), dated January 1, 2010 to present:

- All records regarding the NC 24/27 Road Widening project through the Uwaharrie National Forest, STIP Nos. R-2530B, B-4974, R-2527. This request excludes all records publically available on the EPA website.

Because releasing these records is in the public interest, we request a fee waiver for costs associated with conducting this search.

For the purposes of this request, the term “records” includes all written, printed, recorded, or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of the EPA. Please provide any electronic records in native file format.

In addition, we request access to each and every version of a record or document, whether it is a draft, has been electronically deleted, has attachments, bears annotations, etc. Please also include all responsive records generated up to the date of the agency’s search for records responsive to this request.

FOIA directs a responding agency to make a “determination” on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A); 7 C.F.R. § 1.7(a). Pursuant to 7 C.F.R. § 1.15, in addition to making responsive documents available for request, should you determine that certain documents are responsive to this request and choose not to produce them on the basis of any claimed privilege or exemption from disclosure, we request that you produce a detailed list of those documents, including: the date of the document; the authors and recipients; the subject matter of the document; and the basis for the claimed privilege or exemption for disclosure. Further, where a document contains specific information that you claim is exempt or

privileged, we request that you simply redact the information so claimed and produce the document in redacted form. The redacted information should be included in the list of privileged or exempt information just described.

The disclosure of the requested records would be in the public interest because it is likely to contribute significantly to public understanding of EPA's activities in relation North Carolina Department of Transportation ("NCDOT") and EPA's review of the NC 24/27 road widening project through the Uwharrie National Forest a pristine natural area used by the public for recreational purposes. The proposed road widening has the potential to impact the ability of the public to use the Uwharrie National forest for its intended purpose. This disclosure is not in the commercial interest of SELC. SELC is a 501(c)(3) non-profit organization working to protect the natural resources of the Southeast and, in particular, to gather, analyze, and disseminate public information about matters of conservation and environmental protection. As part of its work, SELC has been actively engaged in protecting the environment of the Southeast for three decades. SELC has been actively engaged in monitoring and participating in projects which may impact forests and other natural areas, with the goal of preserving the natural places of the Southeast for future generations. The proposed road widening of NC 24/27 represents a significant change to the character of the Uwharrie National Forest, which may directly impede the ability of future generations to enjoy this natural area. More information about SELC's efforts can be found at, <https://www.southernenvironment.org/our-programs/southern-forests>. SELC intends to disseminate the information gathered through this request to the general public through press releases, social media, public comment letters, and its website, southernenvironment.org, which is updated regularly.

We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). A fee waiver is appropriate because SELC does not have a commercial interest that would be furthered by the requested disclosure. SELC is a 501(c)(3) non-profit organization that provides legal representation to other 501(c)(3) non-profits and public advocacy free of charge. Our intended use of the requested materials is to glean a greater understanding of EPA's plans for the NC 24/27 road widening project for the reasons discussed above and to continue to disseminate information about federal conservation policy to the public through the many channels described above. All of the activities described above have been, and will continue to be, provided to the public by SELC and our clients for no payment. Courts have recognized that Congress intended FOIA's fee waiver to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

Thank you for your prompt attention to this matter. In the event you deny our request, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. Finally, because the volume of records responsive to our request may be large, we are willing to work with your agency to minimize the work necessary to respond. We are available to review documents prior to any duplication and are willing to discuss other ways to facilitate the production of the requested public records, for instance, by narrowing our request if necessary. Please contact me at (919) 967-1450 or shicks@selcnc.org to arrange for inspection, copying, and electronic transmission of the requested documents.

Sincerely,

A handwritten signature in dark ink, reading "Samuel G. Hicks". The signature is written in a cursive style with a prominent initial 'S' and a stylized 'H'.

Samuel G. Hicks